

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY

ORDER OF THE SUPERVISOR OF WELLS

IN THE MATTER OF:

THE PETITION OF JORDAN DEVELOPMENT)
COMPANY, LLC, FOR AN ORDER FROM THE)
SUPERVISOR OF WELLS AUTHORIZING AN)
EXCEPTION TO THE WELL SPACING PATTERN SET) ORDER NO. 04-2014
BY R 324.301 AND COMPULSORY POOLING ALL)
INTERESTS INTO THE DRILLING UNIT)
IN PINCONNING TOWNSHIP, BAY COUNTY,)
MICHIGAN.)

AMENDED OPINION AND ORDER

This case involves the Petition of Jordan Development Company, LLC (Petitioner). Petitioner has drilled the Krzysik 11-28 well for oil and gas exploration within a drilling unit in the stratigraphic interval known as the Traverse Formation. The Petitioner is requesting the Supervisor approve the existing Krzysik 11-28 location as an off-pattern location and as an exception to R 324.301. The proposed unit consists of the NE 1/4 of SW 1/4 of Section 28, T17N, R4E, Pinconning Township, Bay County, Michigan. The Petitioner has not obtained a commitment to the Proposed Unit from the lessee of oil and gas leases not owned by the Petitioner. Therefore, the Petitioner seeks an Order of the Supervisor of Wells (Supervisor) designating the Petitioner as Operator of the 40-acre drilling unit and requiring compulsory pooling of all uncommitted leases within that geographic area for which the owners have not agreed to voluntary pooling.

Jurisdiction

The development of oil and gas in this state is regulated under Part 615, Supervisor of Wells, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.61501 *et seq.* The purpose of Part 615 is to ensure the orderly development and production of the oil and gas resources of this

state. MCL 324.61502. To that end, the Supervisor may establish drilling units and compulsorily pool mineral interests and lessees' interests within said units.

MCL 324.61513(2) and (4). However, the formation of drilling units by compulsory pooling of interests can only be effectuated after an evidentiary hearing. 1996 MR 9, R 324.302 and R 324.304. The evidentiary hearing is governed by the applicable provisions of the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201 *et seq.* See 1996 MR 9, R 324.1203. The evidentiary hearing in this matter was scheduled on March 21, 2014.

FINDINGS OF FACT

The Petitioner specifically requests that the Supervisor issue an Order that:

1. Approves the existing Krzysik 11-28 well location as an off-pattern location as an exception to R 324.301.
2. Requires compulsory pooling of all tracts, mineral interests, and lessees' interests within the proposed drilling unit that have not agreed to voluntary pooling with the Petitioner.
3. Names the Petitioner as operator of the Krzysik 11-28 well.
4. Authorizes the Petitioner to recover certain costs from the party subject to the compulsory pooling order.

The Administrative Law Judge determined that the Notice of Hearing was properly served and published. An Answer to the Petition, dated March 12, 2014, was filed by Arbor Energy, LLC (Respondent). The Petitioner filed a Reply, Motion to Strike, and Motion in Limine in Response to the Allegations Contained in the Answer of the Respondent on March 18, 2014. The Supervisor designated the hearing to be an evidentiary hearing pursuant to R 324.1205(1)(b), however oral testimony was not given. On March 21, 2014, the parties stipulated to entry of a standard compulsory pooling order in lieu of presenting testimony and agreed to submit a joint proposed order to the Supervisor before April 21, 2014, the deadline agreed upon for the Respondent to decide to participate in the unit. In the event the parties could not agree

on language in a joint proposed order, the parties stipulated that each party would submit its own proposed order for the Supervisor to "choose".

The Petitioner filed its proposed Order on April 30, 2014, and subsequently filed a Motion for Issuance of Compulsory Pooling Order on May 9, 2014, citing the Respondent's failure to follow through on a proposed order pursuant to the terms of the parties' stipulation on the record. The Respondent filed a consolidated Answer to the Motion in this Cause and Cause 03-2014 on June 5, 2014, citing: discrepancies in the interpretation of the stipulated agreement, allegations that the Petitioner did not follow through with its offer to allow review of data, and allegations that the Petitioner did not provide proper notice to interested parties. The Petitioner filed a Reply to Answer of the Respondent in both Causes 03-2014 and 04-2014 on June 11, 2014, disputing the allegations of the Respondent and on July 14, 2014, the Respondent filed a consolidated Denial of Jordan Development Company, LLC Petition for Compulsory Pooling disputing the Petitioner's proposed order and the Petitioner's Reply to Answer.

I have reviewed the transcript and all filings in this matter and find that the Petitioner has substantially fulfilled the agreements it stipulated to on March 21, 2014. The Respondent's attorneys were present on March 21, 2014, and made no objections when the Administrative Law Judge determined that the Notice of Hearing was properly served and published. I find that the Petitioner has adequately demonstrated substantial compliance with the notice requirements of Part 615.

Compulsory Pooling

The Petitioner has obtained oil and gas leases covering 20 acres in the proposed 40-acre unit. Leases for the remaining 20 net acres that are not committed or pooled into the proposed 40-acre unit are owned by the Respondent.

The parties in this matter stipulated to entry of a standard pooling order, the provisions of such being governed by R 324.1206. R 324.1206(5) establishes that the unleased mineral owner shall be subject to a one-eighth royalty interest. The Respondent now argues that this does not apply to it as the interest the Petitioner is asking be pooled, is in fact leased to the Respondent.

If we look to other areas of Part 615, it references the pooling of separately owned tracts and interests (R324.1206(4)) and pooling of properties or parts of properties (MCL 324.61513(4)). I find, the Respondent has not agreed to voluntary pooling and therefore is subject to compulsory pooling and a one-eighth royalty interest.

CONCLUSIONS OF LAW

Based on the Findings of Fact, I conclude, as a matter of law:

1. The Krzysik 11-28 well is located in an off-pattern location for Traverse Formation wells, as established by the Weber 16-29 (PN 60327) Traverse completion discovery. To prevent waste and protect correlative rights, the Supervisor approves the existing Krzysik 11-28 well location as an off-pattern location and an exception to R 324.301.
2. The Petitioner was unable to voluntarily pool all mineral interests and lessees' interests within the proposed drilling unit. The Supervisor may compulsorily pool properties when pooling cannot be agreed upon. Compulsory pooling is necessary to prevent waste and protect the correlative rights of the Pooled Owners in the proposed drilling unit. MCL 324.61513(4).
3. This order is necessary to provide for conditions under which each mineral owner who has not voluntarily agreed to pool all of their interest in the pooled unit may share in the working interest share of production. 1996 MR 9, R 324.1206(4).
4. The Petitioner is an owner within the drilling unit and, therefore, is eligible to drill and operate Krzysik 11-28 well. 1996 MR 9, R 324.1206(4).
5. The Petitioner is authorized to take from each nonparticipating interest's share of production the cost of drilling, completing, equipping, and operating the well, as identified in the Determination and Order section of this Order for the mechanical and engineering risks associated with the equipping of the well. 1996 MR 9, R 324.1206(4).

6. The parties to a proceeding may, by stipulation in writing or entered on the record, agree upon facts, law, or procedure involved in the matter. Stipulations of fact shall be considered as evidence in the proceeding. 1996 MR 9, R 324.1205(4).
7. Spacing for wells drilled in Bay County to the Traverse Formation is 40 acres as set by R 324.301. Exceptions to R 324.301 may be granted by the Supervisor after a hearing.
8. The Supervisor has jurisdiction over the subject matter and the persons interested therein.
9. Due notice of the time, place, and purpose of the hearing was given as required by law and all interested persons were afforded an opportunity to be heard. 1996 MR 9, R 324.1204.

DETERMINATION AND ORDER

Based upon the stipulations of the parties, the Supervisor determines that the off-pattern location exception for the Krzysik 11-28 well and compulsory pooling to form a 40-acre Traverse Formation drilling unit are necessary to protect correlative rights and prevent waste by the drilling of unnecessary wells.

NOW, THEREFORE, IT IS ORDERED:

1. An off-pattern location for the 40-acre Traverse Formation drilling unit is established, as an exception to R 324.301, for the Krzysik 11-28 well comprising the following area: NE 1/4 of SW 1/4 of Section 28, T17N, R4E, Pinconning Township, Bay County, Michigan.
2. As the owner of leases of mineral interests not committed to the Petitioner, the Respondent is the only party subject to pooling in the above described area.

3. The Respondent shall share in production and costs in the proportion that their net mineral acreage in the drilling unit bears to the total acreage in the drilling unit.
4. The Petitioner is named the Operator of the Krzysik 11-28 well. This pooling Order applies to the drilling of the Krzysik 11-28 well only.
5. The Respondent shall be treated as a working interest owner to the extent of 100 percent of the interest owned in the drilling unit. The Respondent is considered to hold a 1/8 royalty interest, which shall be free of any charge for costs of drilling, completing, or equipping the well, or for compensation for the risks of the well or operating the proposed well including post-production costs.
6. By stipulation, the Respondent had until 5:00 p.m. on April 21, 2014, to select one of the following alternatives and advise the Supervisor and the Petitioner, in writing, accordingly:
 - a. To participate, then within ten (10) days of making the election (or within a later date as approved by the Supervisor), pay to the Operator the Respondent's share of the costs for drilling the well from the surface to the base of the Traverse Formation, completing, and equipping the well, or give bond to the Operator for the payment of the Respondent's share of such cost promptly upon completion; and authorize the Operator to take from the Respondent's remaining 7/8 share of production, the Pooled Owner's share of the actual costs of operating the well; or
 - b. To be carried, then if the well is put on production, authorize the Operator to take from the Pooled Owner's remaining 7/8 share of production:
 - (i) The Pooled Owner's share of the actual cost of drilling the well from the surface to the base of the Traverse Formation, completing, and equipping the well.
 - (ii) The Pooled Owner's share of the actual cost of operating the well.

7. As the Respondent has not notified the Supervisor, in writing, of the decision within ten (10) days from April 21, 2014, the Respondent will be deemed to have elected the alternative described in Paragraph 6(b).
8. The Respondent shall be responsible for payment of its share of well costs. Every thirty (30) days, until all costs of drilling, completing, and equipping the well are accounted for, the Operator shall provide to the Respondent a detailed statement of costs and production proceeds allocated to the Respondent.
9. The Operator shall certify to the Supervisor that the following information was supplied to the Respondent no later than the effective date of the Order:
 - a. The Order
 - b. The Authorization for Expenditure (AFE)
10. The Respondent shall remain a Pooled Owner only until such time as a lease or operating agreement is entered into with the Operator. At that time, terms of the lease or operating agreement shall prevail over terms of this Order.
11. The Supervisor retains jurisdiction in this matter.
12. The effective date of this Order is August 29, 2014.

DATED: August 21, 2014



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